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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,993	08/27/2001	Shirley Pollack	SHP-02003/03	5362

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EXAMINER	
JEFFERY, JOHN A	
ART UNIT	PAPER NUMBER

3742

DATE MAILED: 02/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/939993	Pollock
Examiner	Jeffery	Group Art Unit
		3742

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

Responsive to communication(s) filed on 1/25/02

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

Claim(s) 1-15 is/are pending in the application.

Of the above claim(s) 8-12 is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1-7, 13-15 is/are rejected.

Claim(s) _____ is/are objected to.

Claim(s) _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The proposed drawing correction, filed on _____ is approved disapproved.

The drawing(s) filed on 8/27/01 is/are objected to by the Examiner.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). 2, 4 Interview Summary, PTO-413

Notice of Reference(s) Cited, PTO-892 Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948 Other _____

Office Action Summary

Attachment for PTO-948 (Rev. 03/01, or earlier)

6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

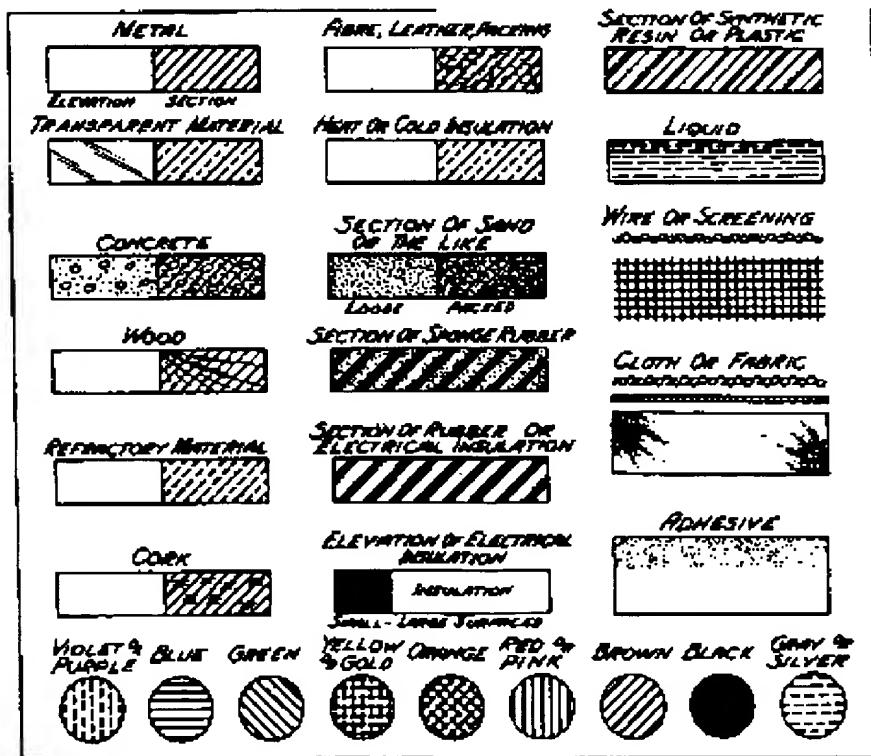
Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.

Applicant's election of Species A (Fig. 1-3) and Subspecies A4 without traverse is acknowledged. However, the examiner respectfully traverses Applicant's statement that claim 8 is readable on the elected species. Claim 8 is directed to a wall-mounted housing in proximity to a flat surface for supporting a baby. However, Figs. 1-3 are directed to a hand-held dryer--not a wall-mounted dryer. Accordingly, claims 8-12 are hereby withdrawn from consideration as being directed to nonelected species.

The drawings are objected to because of the following informalities:

Fig. 3-8: Proper cross-sectional hatching is required to properly resilient materials for the resilient outermost end of the end piece in accordance with MPEP 608.02 (see the drawing below for proper hatching examples). As shown, the hatching is currently for metal which is improper.



The response to this action must include a separate letter addressed to the examiner and contain: (1) sketches showing in red the drawing changes required above and (2) a request that the examiner approve the changes as shown on the sketches.

IMPORTANT NOTE: The filing of new formal drawings to correct the noted defect may be deferred until the application is allowed by the examiner, but the

print or pen-and-ink sketches with proposed corrections in red ink is required in response to this office action, and may not be deferred.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1-3, 5-7, 13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE2637484 in view of Caruso (US3836750). DE2637484 discloses a heated air blowing device comprising an electric heating element and fan powered by batteries. The outermost end of nozzle 1 is made of rubber so that the surface to be heated is not damaged by contact therewith. Also, the rubber nozzle tip is interchangeable. See Abstract and Figure. While the handheld heater is disclosed for thawing frozen vehicle locks, the recited use of the instant invention (i.e., drying a moist region of a person's body) is merely intended use of the apparatus and does not structurally limit the claims. It is well settled that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). Also, a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the structural limitations of the apparatus claimed. See *Ex Parte Masham*, 2 USPQ 2d 1647 (1987). The claims differ from the previously cited prior art in calling for means for venting air to the atmosphere if the outermost end of the air outlet is blocked. Providing means for venting air from a handheld dryer if the endmost outlet is blocked is conventional and well known in the art as evidenced by Caruso (US3836750) noting ports 86 which prevent the development of substantial back pressure if the main outlet 84 is blocked. See Fig. 2 and col. 3, lines 39-49. In view of Caruso (US3836750), it would have been obvious to one of ordinary skill in the art to provide auxiliary ports in conjunction

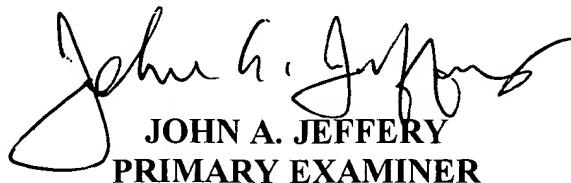
with the main outlet of the previously described apparatus so that back pressure is relieved via the additional ports if the main outlet is blocked.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE2637484 in view of Caruso (US3836750) and further in view of Martin (US1660802). The claim differs from the previously cited prior art in calling for a lamp. Providing a lamp in conjunction with a heated air blower is conventional and well known in the art as evidenced by Martin (US1660802) noting lamp 46 in Fig. 2 which illuminates the area to be heated. In view of Martin (US1660802), it would have been obvious to one of ordinary skill in the art to provide a lamp in conjunction with the heated air blower of the previously described apparatus so that the area to be heated is illuminated via a lamp integrated with the blower, thereby precluding the need for additional lights and electric power sources therefor.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE2637484 in view of Caruso (US3836750) and further in view of Chimera (US5394620). The claim differs from the previously cited prior art in calling for electrical contacts adapted to allow recharging of the battery. Providing contacts on a handheld heated air blower for a rechargeable battery is conventional and well known in the art as evidenced by Chimera (US5394620) noting recharging stand 19 adapted to recharge the batteries in the handheld blower when not in use. In view of Chimera (US5394620), it would have been obvious to one of ordinary skill in the art to provide a recharging means with electrical contacts on the blower of the previously described apparatus so that the batteries could be recharged when not in use, thereby precluding the need to replace the batteries when they are run down.

Any inquiry concerning this or earlier communications from the examiner should be directed to John A. Jeffery at telephone number (703) 306-4601 or fax (703) 305-3463. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 4:30 PM EST. The examiner can also be reached on alternate Fridays.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861.



JOHN A. JEFFERY
PRIMARY EXAMINER

2/4/02